

MAIDSTONE BOROUGH COUNCIL

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

MINUTES OF THE MEETING HELD ON 20 NOVEMBER 2017

Present: Councillor McLoughlin (Chairman) and Councillors Adkinson, Mrs Blackmore, Butler, Coulling (Parish Representative), English, Fissenden, Harvey and Perry

43. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Daley and Garland.

44. NOTIFICATION OF SUBSTITUTE MEMBERS

It was noted that Councillor Mrs Blackmore was substituting for Councillor Garland.

45. URGENT ITEMS

The Chairman stated that, in his opinion, the schedule prepared by the Interim Deputy Head of Legal Partnership setting out further information in respect of the complaints received under the Members' Code of Conduct during the period 1 January 2017 to 31 October 2017 should be taken as an urgent item to assist Members' understanding of the nature of the complaints received and the reasons why they had or had not been progressed.

46. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members.

47. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

48. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

49. EXEMPT ITEMS

RESOLVED: That the items on the agenda be taken in public as proposed.

50. MINUTES OF THE MEETING HELD ON 18 SEPTEMBER 2017

RESOLVED: That the Minutes of the meeting held on 18 September 2017 be approved as a correct record and signed.

In response to a question by a Member, the Director of Finance and Business Improvement confirmed that an appointment had been made to the new position of Contracts and Compliance Officer (Leisure and Culture), and the Officer was now in post.

51. PRESENTATION OF PETITIONS

There were no petitions.

52. QUESTIONS AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

There were no questions from members of the public.

53. COMMITTEE WORK PROGRAMME 2017-18

The Committee considered its Work Programme for the remainder of the 2017/18 Municipal Year. It was suggested and agreed that an item be included in the Work Programme for 2018/19 reviewing the impact of the appointment of a "Public Open Space and Recreation Delivery Officer" who would be responsible for ensuring that public open space and recreation projects funded by S106 contributions and CIL are implemented.

54. COMPLAINTS RECEIVED UNDER THE MEMBERS' CODE OF CONDUCT

The Committee considered the report of the Interim Deputy Head of Legal Partnership on complaints received under the Members' Code of Conduct together with the schedule setting out further information in respect of the complaints received between 1 January 2017 and 31 October 2017. It was noted that:

- In the last report to the Committee it was reported that for the period 1 January 2017 to 31 May 2017, there had been one new complaint which related to three separate subject Members. Unfortunately, due to an error in the recording procedure, this was incorrect. The procedure had now been rectified, and in fact there had been six complaints during the period relating to eight subject Members. Four of the complaints related to Parish Councillors and two to Borough Councillors. Following initial assessment, none of the complaints were progressed as four failed the "Legal Jurisdiction Test" and two failed the "Local Assessment Criteria".
- Since the last report to the Committee, there had been five new complaints; three of the complaints related to Parish Councillors and two related to Borough Councillors. Two of the complaints were at the initial assessment stage, two had not been progressed as they failed the "Local Assessment Criteria" and one was dealt with by informal

resolution as the Parish Council agreed to training on the Code of Conduct, and this was delivered by the Monitoring Officer.

In response to questions, the Interim Deputy Head of Legal Partnership explained that:

- The schedule circulated at the meeting contained details of all of the complaints received during the period 1 January 2017 to 31 October 2017.
- The Constitution provided for a Hearings Sub-Committee to meet to consider any complaint which remained valid after investigation and consideration by the Monitoring Officer in consultation, as required, with the Independent Person. To date, the Hearings Sub-Committee had not been required to meet. Last year a complaint involving two subject Members had been referred to independent investigation; however, following the resignation of both subject Members the investigations ceased and the matters closed as it was considered that it would not be in the public interest to take matters any further forward. If the subject Members had not resigned, and, depending upon the findings of the investigation, it might have been necessary to hold the first meeting of the Sub-Committee.

RESOLVED: That the report be noted.

55. UPDATE ON THE GENERAL DATA PROTECTION REGULATION

The Committee considered the report of the Head of Policy, Communications and Governance providing an update on the General Data Protection Regulation (GDPR) that would replace the Data Protection Act (DPA) 1998, with effect from 25 May 2018. The report included an overview of the GDPR and additional or changed responsibilities from the current DPA compliance responsibilities, and outlined the action that was required to prepare for these changes.

The Head of Policy, Communications and Governance advised the Committee that there were several new elements and enhanced rights for individuals that required additional action by the Council. Fines for failure to comply had increased significantly as had the Council's responsibilities. Meetings were being held with high risk service areas which processed large volumes of data and audits were being carried out with these services. Other key actions included putting together retention schedules for the Authority and reviewing and updating all of the Council's Data Protection policies and guidance. Briefing sessions would be held for Councillors prior to each Service Committee meeting in January.

In response to questions by Members, the Head of Policy, Communications and Governance and the Policy and Information Manager explained that:

- In terms of data held about children, there were some areas of the Council such as the Museum which worked with children, and there

were some service areas where residents might be required to submit evidence which included information about children. It would be necessary to look at each area individually to determine how to progress this as it might be that the information was not essential or might need to be redacted.

- For the most part, the action plan for preparing for the changes was on track, but there were some areas where guidance from the Information Commissioner's Office was awaited.
- The Officers would be happy to deliver a briefing session for Parish Clerks on the new Regulations in January.
- The Information Commissioner's Office would decide the level of fines, but the money would go to the Treasury.
- A Data Protection Bill was brought out by the Government in September 2017 as some aspects of the GDPR, for example, exemptions, did require legislation.

RESOLVED: That the update on the General Data Protection Regulation be noted.

56. INTERIM INTERNAL AUDIT & ASSURANCE REPORT

The Head of Audit Partnership introduced his report updating Members on progress against the 2017/18 Internal Audit and Assurance Plan. The report also met the requirement in accordance with the Public Sector Internal Audit Standard 2060 to report to Members on:

The Audit Charter;
The independence of Internal Audit;
Audit Plan changes and progress against the Plan;
Resource needs of the Audit Service;
Results of audit work so far;
Conformance with the Standards and Code of Ethics; and
Details of risks taken by management that, in the Head of Audit Partnership's judgement, might be unacceptable to the Authority.

The Head of Audit Partnership advised the Committee that:

- Good progress had been made against the Plan so far although the continuing absence of a member of the Internal Audit Team due to sickness might result in an under-delivery at year end. By continuing to adjust its plans according to the Council's risk profile, the Team remained confident of delivering a robust audit opinion by the end of the year.
- It was a requirement of Audit Standard 2060 that the Internal Audit Team report to Members any risks accepted by management that in its view might be unacceptable to the organisation. For example, this might include audit recommendations that management refuse to

address. No risks had been identified through Internal Audit work that the Team believed management had unreasonably accepted.

- So far in 2017/18 Internal Audit had delivered positive assurance ratings on all reviews completed and could report improving levels of delivery on the part of Officers acting to address audit recommendations. It was anticipated that the report on the review of Contract Management would be issued in March 2018. The responsible Officers were on track to implement the recommendations arising from the review of the Hazlitt Theatre.
- The Council's Whistleblowing Policy named Internal Audit as one route through which Members and Officers could safely raise concerns on inappropriate or criminal behaviour. Two matters had been raised with Internal Audit for review during 2017/18. Both matters had been resolved to the complainants' satisfaction, and there were no details that needed to be brought to the Committee's attention.
- In terms of other audit and advice work, the Internal Audit Team had undertaken an Independent Management Report for the Kent and Medway Safeguarding Adults Board. That review followed a referral by the Council after the death in late 2016 of a vulnerable adult in the Borough. It was concluded that there were no alternative courses of action the Council should have taken in accordance with its policies and that it had acted appropriately in dealing with the incident as it unfolded.
- The collaboration agreement between the four partner authorities required the Internal Audit Service to undergo a mid-term review before January 2018. The overall picture that emerged of Mid-Kent Audit was of a service working well and delivering above expectations. The final question of a survey sent to over one hundred Members and Officers as part of the review invited participants to score on a scale of 0-100 how likely they would be, if asked, to recommend Mid-Kent Audit to another Authority. The results showed a strong positive response to the Internal Audit Service remaining consistent across Members, Officers and Authorities.
- The Internal Audit Team had received Swale Borough Council's Team of the Year award. Integrated working meant that almost the entire Team had spent some time at Swale and so contributed to the achievement.

On behalf of the Committee, the Chairman congratulated the Internal Audit Team on its success.

In response to questions, the Head of Audit Partnership/Audit Manager explained that:

- In terms of 2016/17 assurance projects completed after 1 April 2017, there had been no assurance rating in respect of the Corporate

Governance Transparency Review as the Internal Audit Team had been asked to provide feedback on a tick list.

- Planned 2017/18 assurance projects in progress included a review of Payroll which, so far, had taken four days longer than planned. This was because complications had arisen about who could or could not sign off HMRC returns. This was largely an issue at Swale Borough Council, but because this was a joint review as the Payroll service was shared, the budget, in days, covered both Authorities.
- Planned 2017/18 assurance projects yet to begin included a review of Animal Welfare Control. The Council did have some role in this area, and whilst it was not high on the risk list, it did form part of the Audit Universe and was examined periodically. The list of projects yet to begin was not driven wholly by priority, more by way of the order they were sequenced to be completed throughout the year.
- Planned 2017/18 assurance projects yet to begin included a review of Homelessness. This did not include a review of Temporary Accommodation as a review of that had been carried out a few years ago, and that area would be looked at again in due course. The Internal Audit Team was in discussion with the Head of Housing and Community Services regarding the exact scope of the Homelessness review, but broadly speaking it would cover compliance with the relevant legislation and the Council's Homelessness Strategy and the process for determining a person's eligibility for homelessness. Fifteen plan days had been allocated for the review based on a risk assessment, but this could be amended when scoping the work.
- With regard to risk management, a comprehensive exercise to identify operational risks had resulted in an increase in the total recorded in the comprehensive risk register from 187 in September 2016 to 246 in August 2017. Risks were assessed for impact and likelihood. Six impact areas had been defined to inform the assessment of risks on the comprehensive risk register and scoring. Consideration would be given as to how information could be presented in the quarterly risk report aggregating risks into the different impact areas and the numbers in each category, to provide assurance.

A Member expressed concern that the audit review of the Accounts Payable system had found appropriate separation of duties between departments raising orders and the payment of invoices by the Finance Team, but the current responsibilities and processes over the payment run, meant that an Officer (within Finance) could set up a supplier and make a payment without the details being checked. The Head of Audit Partnership undertook to provide further details to allay concerns about the risks seemingly posed by this finding.

The Chairman thanked the Head of Audit Partnership for a comprehensive and professionally produced report.

RESOLVED: That, subject to the points raised in the discussion, the progress against the 2017/18 Internal Audit and Assurance Plan and the findings so far be noted.

57. EXTERNAL AUDITOR'S ANNUAL AUDIT LETTER 2016/17

The Committee considered the External Auditor's Annual Audit Letter summarising the main findings from the work undertaken by the External Auditor for the year ended 31 March 2017. It was noted that:

- The External Auditor had given an unqualified opinion on the Council's accounts on 28 September 2017, in advance of the 30 September 2017 national deadline.
- The External Auditor was satisfied that in all significant respects the Council had put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2017.

In response to questions, the Director of Finance and Business Improvement/representative of the External Auditor explained that:

- The level of materiality used in planning and performing the audit of the Council's accounts was 2% of the Council's gross revenue expenditure (£1.79m). The concept of materiality to provide a level of assurance was well established and 2% represented the lowest level of risk that the External Auditor operated at. A lower level of specific materiality for Cash of £500k had been set by the External Auditor.
- The aim of External Audit work was to give a true and fair opinion on the Council's Financial Statements and these Statements were at a higher level than day to day transactions. They were not the figures used for day to day operational purposes; for that Management relied more on Internal Audit which tended to go into more detail. This approach was appropriate for the Financial Statements, but for internal purposes, management accounts and operations, a different standard was required.
- With regard to the findings and conclusions of the work undertaken by the External Auditor in response to the risk identified in relation to the valuation of the Council's Pension Fund net liability, the Council was part of the Kent Pension Fund. The County Council used an Actuary to value the Fund at a point in time (31 March 2017). One of the rates used by the Actuary was 0.1% outside the range used by the External Auditor's expert who had reviewed the Actuary's assumptions, so it was very minor. Looking at the impact of all assumptions holistically, the External Auditor had obtained sufficient assurance that the Pension Fund liability was not materially misstated.

RESOLVED: That the External Auditor's Annual Audit Letter for the year ended 31 March 2017, attached as Appendix 1 to the report of the Director of Finance and Business Improvement, be noted.

58. TREASURY MANAGEMENT MID YEAR REVIEW 2017/18

The Committee considered the report of the Head of Finance setting out details of the activities of the Treasury Management function for the first six months of the financial year 2017/18 in accordance with CIPFA's Code of Practice on Treasury Management in Local Authorities in the context of the current economic environment. It was noted that:

- In accordance with the Council's Investment Strategy for 2017/18, the maximum principal sum to be invested for a period exceeding 364 days had been reduced from £8m to £5m. This was consistent with the borrowing strategy to utilise cash balances rather than loan debt to finance the Capital Programme in the short term due to low investment returns and high counterparty risk in the current economic climate.
- The Council had used a diverse range of highly rated institutions as set out in the counterparty list to invest its funds. All new investments during the first six months of 2017/18 were short term (less than a year) making them readily available when required. Total investments as at 30 September 2017 were £26.455m. Investment rates had remained low during this period; the average rate on the Council's investments was 0.42% and investment income totalled £106k. There had been no requirement to borrow during this period.
- During the financial year 2017/18 to date, the Council had operated within the Prudential and Treasury Indicators set out in the Treasury Management Strategy Statement and in compliance with the Council's Treasury Management Practices.
- The Prudential Indicators showed actual capital expenditure of £6.195m as at 30 September 2017, and this was fully funded. The Capital Financing Requirement (CFR) measured the Council's need to borrow for a capital purpose. A negative figure showed that the Council had more than sufficient reserves to fund its capital programme at this point. It was anticipated that the Council would have a negative CFR figure by the end of the year; it was currently £99k.

In response to a question, the Finance Manager explained that three investments had matured recently, and the funds had been re-invested short term (less than one year).

RESOLVED:

1. That the position with regard to the Treasury Management Strategy as at 30 September 2017 be noted.
2. That no amendments to the current procedures are necessary as a result of the review which has been undertaken of the activities of the Treasury Management function in 2017/18 to date.

59. BUDGET STRATEGY - RISK ASSESSMENT UPDATE

The Committee considered the report of the Director of Finance and Business Improvement providing an update on the budget risks facing the Council.

It was noted that:

- The core inflation assumption in the Medium Term Financial Strategy was 2% in line with the Bank of England target. However, recent inflation figures had been significantly higher than this, and if this higher rate was sustained, then the assumptions would need to be revisited, for example with regard to pay awards.
- In the short term, a measure of greater certainty had now been provided by the Government's confirmation that the Council Tax referendum limit would be the higher of £5 or 2% in 2018/19. However, in 2019/20, the Council still faced the likelihood that it would have to pay the Government "negative Revenue Support Grant" of £1.6m. The position for 2020/21 onwards remained very unclear.
- There had been indications in advance of the Chancellor's budget statement on 22 November 2017 that restrictions might be introduced on local authority borrowing, and the Government had consulted on changes to the Prudential Framework. The Medium Term Financial Strategy assumed that the Council would be able to borrow from the PWLB at competitive rates. Depending on the nature of the restrictions, this might affect the Council's capacity to fund its Capital Programme; an update would be provided at each meeting of the Committee.
- Performance so far for the current financial year had been broadly in line with budget. There were potential overspends in the areas of temporary accommodation and planning appeals, but it looked at this stage as though they could be offset by underspends elsewhere. The implementation of projected increases in planning fees had been delayed due to the General Election, but the shortfall in income had been more than offset by better than budgeted income elsewhere.

In response to questions by Members, the Director of Finance and Business Improvement explained that:

- The full budget risk register was attached to the report, but there was a need to remain alert to other potential risks that might materialise.
- In terms of costs associated with planning appeals, an assumption had been made in the regular budget monitoring reports that there could be a risk of an additional £200k above what had been budgeted for. This was a budget risk, but not of the magnitude that it needed to be included in the risk matrix.

RESOLVED: That the updated risk assessment of the Budget Strategy, attached as Appendix A to the report of the Director of Finance and Business Improvement, be noted.

60. DURATION OF MEETING

6.30 p.m. to 7.50 p.m.